

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.514 of 2017
IN
Civil Writ Jurisdiction Case No. 627 of 2015**

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1. Moti Chandra Kumar son of late Ram Chandra Prasad Permanent resident of village and Post Office - Rahmatpur, Police Station and District - Samastipur, At present residing at Mohalla Adarsh Nagar, Indira Niwas, Post Office + Police Station & District - Samastipur.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary Revenue Department, Government of Bihar, Old Secretariate, Bihar, Patna.
3. The Commissioner-cum-Secretary, General Administration Department, Government of Bihar, Old Secretariate, Bihar, Patna.
4. The Commissioner, Darbhanga Division, Darbhanga Post & District - Darbhanga.
5. The Collector-cum-District Magistrate, Samastipur Post & District - Samastipur, PIN - 848101.
6. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gopesh Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-07-2017

Seeking exception to an order dated 20th of February, 2017 passed by the learned Writ Court in C.W.J.C. No.627 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.



Petitioner was working in the establishment of Collector/District Magistrate, Samastipur and the writ petition in question was filed before this Court in the year 2015 i.e. on 12.1.2015 and the relief claimed in the writ petition was that the petitioner be granted Senior Selection Grade promotion w.e.f. 1.6.1981, supertime scale promotion w.e.f. 1.6.1983 and time bound promotion on completion of 25 years of service w.e.f. 20.02.1998. These claims were made by the petitioner in the year 2015 i.e. four years after his retirement on 30th of November, 2011. Learned Writ Court rejected these prayers by holding that now, after such a long period of time after retirement of the petitioner, the relief/s cannot be granted and refused to make any indulgence into the matter.

However, it was argued before us that earlier, in the year 1992 petitioner had filed C.W.J.C. No.5107 of 1992 which was disposed of on 19th of September, 2005. Liberty was granted to the petitioner to file a representation which the petitioner filed on 2.9.2008, but when it was not decided till filing of the writ petition on 12.1.2015, there is no delay and the learned Writ Court has not taken note of these aspects of the matter. That apart, it was tried to be indicated that time bound promotion was granted to certain persons in the year 2011 when the petitioner was in service and,



therefore, there was no delay.

As far as this aspect of the matter is concerned, we find that on 19th of September, 2005 the writ petition filed in the year 1992 was withdrawn with liberty to submit a representation to the competent authority. After withdrawal of the writ petition, records indicate that Civil Review No.241 of 2005 was filed. This was also dismissed and it is only after three years that on 2.9.2008 the representation was filed and even after filing of the representation in the year 2008, for a period of seven years, nothing was done and it was only after seven years that the writ petition was filed in the year 2015. If taking note of these facts and circumstances, the learned Writ Court has found that for grant of seniority and certain consequential benefits for which the cause of action accrued in the year 1991 now, after such a long period of time, indulgence cannot be made, we see no reason to make any indulgence in the matter. Even though Shri Gopesh Kumar, learned counsel for the petitioner, vehemently argued that looking to the fact that just before superannuation of the petitioner, in the year 2011 time bound promotion was granted to certain persons junior to the petitioner, the petition is within limitation, we are of the considered view that looking to the totality of the facts and circumstances of the case and the detailed order passed by the learned Writ Court, as is indicated



by us hereinabove, we find no ground to make any indulgence in the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

